

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

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UNITED STATES OF AMERICA,  
  
Plaintiff,  
  
v.  
  
JUAN AGUILAR CORTEZ,  
  
Defendant.

CR. NO. 2:95-20 WBS

**ORDER**

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On June 5, 1996, defendant Juan Aguilar Cortez was found guilty by jury verdict of conspiracy to distribute methamphetamine in violation of 21 U.S.C. §§ 841(a)(1) and 846, possession with intent to distribute methamphetamine in violation of 21 U.S.C. § 841(a)(1), and possession with intent to distribute marijuana in violation of 21 U.S.C. § 841(a)(1). (Presentence Report ("PSR") ¶ 1; see Docket Nos. 8, 121.) The offenses involved a total of 2,235 grams of methamphetamine and 3,132 grams of marijuana. (PSR ¶ 13.)

The differing drugs were converted to their marijuana

1 equivalencies pursuant to § 2D1.1 of the 1995 United States  
2 Sentencing Commission Guidelines Manual ("U.S.S.G."). Under the  
3 Drug Equivalency Table, one gram of methamphetamine converted to  
4 one kilogram of marijuana, and this resulted in a total quantity  
5 of 2,238.132 kilograms of marijuana. (PSR ¶ 13); see U.S.S.G.  
6 § 2D1.1 cmt. n.10 (1995).

7 Section 841(b)(1)(A) imposed a "mandatory term of life  
8 imprisonment without release" if a defendant with two or more  
9 prior felony drug convictions committed a violation involving at  
10 least 1,000 kilograms of marijuana or 100 grams of  
11 methamphetamine. See 21 U.S.C. § 841(b)(1)(A)(vii)-(viii) (1996)  
12 (amended 1998).<sup>1</sup> Because defendant had at least two prior felony  
13 drug convictions, the court sentenced defendant to life  
14 imprisonment without the possibility of parole. (PSR ¶¶ 20-24;  
15 Docket Nos. 139, 143).

16 Defendant now moves to reduce his sentence pursuant to  
17 18 U.S.C. § 3582(c)(2) based on Amendment 782 to the Sentencing  
18 Guidelines. (Docket No. 259.) That amendment retroactively  
19 modifies § 2D1.1's Drug Quantity Table and reduces by two points  
20 the base offense level for most federal drug offenses. See  
21 U.S.S.G. App. C, Amend. 782 (2014).

22 To grant a motion under 18 U.S.C. § 3582(c)(2), the  
23 "court must first determine that a reduction is consistent with  
24 § 1B1.10." Dillon v. United States, 560 U.S. 817, 826-27 (2010).

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26 <sup>1</sup> The current, amended version of the statute is  
27 identical to the version that was in effect when defendant was  
28 sentenced, except it requires only 50 grams of methamphetamine to  
trigger the mandatory minimum sentence of life imprisonment. Id.  
§ 841(b)(1)(A)(viii) (2016) (amendment effective Oct. 21, 1998).


1 A reduction in the defendant's term of imprisonment is not  
2 consistent with § 1B1.10 if an amendment is inapplicable to the  
3 defendant's term of imprisonment. See U.S.S.G. § 1B1.10 (1995 &  
4 2015).

5 Defendant here was sentenced based on the statutory  
6 mandatory minimum sentence, and not on a sentencing range that  
7 has been lowered by the Sentencing Commission. Amendment 782's  
8 changes to the Drug Equivalency Tables in U.S.S.G. § 2D.1 also do  
9 not affect defendant's statutory minimum sentence. The current  
10 tables convert one gram of methamphetamine to two kilograms of  
11 marijuana, which equal a total quantity of 4,473.132 kilograms of  
12 marijuana and therefore still mandate a "mandatory term of life  
13 imprisonment without release" pursuant to § 841(b)(1)(A). See  
14 U.S.S.G. § 2D1.1 cmt. n.8(D) (2015).

15 Accordingly, because defendant was not sentenced based  
16 on a sentencing range that has been lowered by the Sentencing  
17 Commission, and his statutory mandatory minimum sentence would be  
18 the same even if Amendment 782 were in effect at the time of  
19 sentencing, defendant does not qualify for a sentence reduction  
20 pursuant to 18 U.S.C. § 3582(c)(2) and the court must therefore  
21 deny his motion.

22 IT IS THEREFORE ORDERED that defendant's Motion for  
23 Reduction of Sentence pursuant to 18 U.S.C. § 3582(c) (Docket No.  
24 259) be, and the same hereby is, DENIED.

25 Dated: February 11, 2016

26   
27 WILLIAM B. SHUBB  
28 UNITED STATES DISTRICT JUDGE